

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of the ESTATE OF STEPHANIE  
KULCZYCKI, Deceased.

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MICHAEL KULCZYCKI, Personal Representative

Petitioner-Appellee,

v

ANDREW KULCZYCKI,

Respondent-Appellant.

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UNPUBLISHED

February 5, 1999

No. 200178

Wayne Probate Court

LC No. 90-501789

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Andrew Kulczycki, former personal representative of his mother's estate, appeals by right the order of the probate court disallowing his expenses and imposing a surcharge. We affirm. After the death of Stephanie Kulczycki, Andrew initiated probate court proceedings, and was named personal representative of the estate. Objections were filed to his handling of the estate, and appellee was named successor personal representative. After a hearing on Andrew's final accounting, the court denied his request for fees and expenses, and imposed a surcharge of \$3,647.43 against him. The court found that the fees requested by Andrew were more than offset by the problems, failures, and waste of assets caused by his actions.

When a personal representative through his negligence causes harm to an estate, the personal representative may be deprived of the compensation he would otherwise be entitled to. *In re Thacker Estate*, 137 Mich App 253, 263; 358 NW2d 342 (1984). One acting as a fiduciary is charged with knowledge of the law, and may be properly surcharged for detriment caused to the estate. *Id.*, 264; MCL 700.544(1); MSA 27.5544.

A probate court's findings of fact are reviewed for clear error. *In re Powell Estate*, 160 Mich App 704, 710; 408 NW2d 525 (1987). The finding that Andrew's actions reduced the value of the

estate is supported by the record. The amount of the surcharge is related to the reduction in value of the estate while Andrew was the personal representative. Where neither party requested discovery or moved for an evidentiary hearing, the court could properly decide the matter on the established record.

Affirmed.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra